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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,695	03/24/2004	Ali Nilforushan	8048-002-US	4408
32301	7590	07/12/2006	EXAMINER	
CATALYST LAW GROUP, APC 9710 SCRANTON ROAD, SUITE S-170 SAN DIEGO, CA 92121			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,695

Applicant(s)

NILFORUSHAN, ALI

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17,27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Upon further consideration, the allowable subject matter stated in the office action mailed on 12/15/05 has been withdrawn in view of the following:

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1,5-7,13,16,27,28** are rejected under 35 U.S.C. 102(b) as being anticipated by Tadauchi et al. (JP10113088A).

For claim 1, Tadauchi et al. teach an animal cover 1 comprising a body having an interior and exterior side; a plurality of cavities 22,23 strategically located within the body (as shown in fig. 1, the cavities 22,23 are located inside the harness); and a temperature altering device 21,24.

For claims 5 & 7, Tadauchi et al. teach the temperature altering device being removably located within the cavities (the altering device is located in the cavity and the both can be disconnected from the VELCRO 32, thus, removably located).

For claim 6, Tadauchi et al. teach the temperature altering device being permanently located in the cavities (permanently by not removing the altering device and leaving it in the cavity whenever).

For claim 13, Tadauchi et al. teach wherein the cavities are adjustable about the body by disconnecting the cavities from the VELCRO 32.

For claim 16, Tadauchi et al. teach a horse.

For claim 27, Tadauchi et al. teach a horse cover for delivering a targeted temperature altering regimen 21,24 to a specific and defined location of a horse's body comprising a muscle, a muscle group, a joint, a skeletal structure or combinations thereof, wherein the specific and defined location of the horse's body is affected with a problem, the problem comprising aching, soreness, inflammation or swelling, the animal cover comprising: a body 1 of the cover; strategically located cavities 22,23 about the horse cover for delivering the targeted temperature altering regimen to the specific and defined location of the horse's body.

For claim 28, Tadauchi et al. teach wherein the cavities are strategically located at the specific and defined location of the horse's body by positioning and repositioning (by connecting/disconnecting the alter device from the VELCRO 32) the cavities to the area currently affected with the problem, the horse cover being constructed such that the cavities contact and remain at the specific and defined location.

4. **Claims 1,2,4-8,10,12,16** are rejected under 35 U.S.C. 102(b) as being anticipated by Beeghly et al. (5537954).

For claim 1, Beeghly et al. teach an animal cover 10 comprising a body having an interior and exterior side; a plurality of cavities 14,21,22,20,34 strategically located within the body; and a temperature altering device 40.

For claims 2 & 4, Beeghly et al. teach the cavities are located in the area as shown in the figures.

For claims 5 & 7, Beeghly et al. teach the temperature altering device being removably located within the cavities (col. 5, lines 52-67).

For claim 6, Beeghly et al. teach the altering device being permanently located in the cavities in the event a user does not remove it from the cavities, then, it's there permanently.

For claim 8, Beeghly et al. teach the cavities form a sealable pocket by snaps 36.

For claim 10, Beeghly et al. teach the altering device is removed from the cover and is brought to a desired temperature by placing the altering device in a heated environment until the altering device reaches a desired temperature and can be returned to the cover and used to deliver a temperature altering regimen to an animal (col. 5, lines 52-68 and col. 6, lines 1-39).

For claim 12, Beeghly et al. teach the cavities further comprise a material on the exterior side of the body of the cover that will reflect the temperature emitted from the altering device towards the body of the animal for maximum efficiency of temperature transfer (col. 5, lines 35-42).

For claim 16, Beeghly et al. teach the animal being a dog.

5. **Claims 1-7,16-17,27** are rejected under 35 U.S.C. 102(b) as being anticipated by DE 20021260U1 (herein DE260).

For claim 1, DE260 teaches an animal cover 1 comprising a body having an interior and exterior side; a plurality of cavities 2 strategically located within the body; and a temperature altering device (the heat pad discussed in the Abstract).

For claims 2-4, DE260 teaches the cavities are located in the area as shown in the figures.

For claims 5 & 7, DE260 teaches the temperature altering device being removably located within the cavities (see Abstract).

For claim 6, DE260 teaches the altering device being permanently located in the cavities in the event a user does not remove it from the cavities, then, it's there permanently.

For claim 16, DE260 teaches the animal being a horse.

For claim 17, DE260 teaches the cover being a horse blanket 1 and the animal being a horse.

For claim 27, DE260 teaches a horse cover for delivering a targeted temperature altering regimen to a specific and defined location of a horse's body comprising a muscle, a muscle group, a joint, a skeletal structure or combinations thereof, wherein the specific and defined location of the horse's body is affected with a problem, the problem comprising aching, soreness, inflammation or swelling, the animal cover comprising: a body 1 of the cover; strategically located cavities 2 about the horse cover for delivering the targeted temperature altering regimen to the specific and defined location of the horse's body.

6. **Claims 14-15** are rejected under 35 U.S.C. 102(b) as being anticipated by Daneshvar (5383893).

Daneshvar teaches an animal cover adapted to conform to the shape of an animal's body to deliver a temperature altering regimen (col. 27, lines 11-19) to a an

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animal's stifle, the animal cover comprising: a body (20 or 84) of the animal cover having an interior and exterior sides; a flap (the area where ref. 26 or 98 is located) located on the body of the animal cover, wherein said flap wraps from the outer thigh around to the inner thigh 24,32 and is adjustably attached to the buttock and/or croup area 23,30 of the animal cover (see figs. 1,2,7); a cavity (refs. 40,56, col. 5, lines 30-40 and col. 6, lines 40-46, by placing the VELCRO 54 on the flap as desired) located on said flap; and a temperature altering device 36 (also, col. 27, lines 11-19). In addition, Daneshvar teaches the cavity is adjustable by the VELCRO 54 placed wherever desired (see also col. 5, lines 30-40 and col. 6-lines 40-46).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Beeghly et al. (as above).

Beeghly et al. teach the altering device being placed in the microwave (col. 6, lines 1-15). However, Beeghly et al. are silent about placing the entire cover in a refrigerated or heated environment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the entire cover of Beeghly et al. in the heated environment, depending on the user's preference to do so if he/she does not wish to remove the altering device from the pocket.

9. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Beeghly et al. (as above) in view of Llamas (5361563).

Beeghly et al. are silent about the cover being made of a material that wick moisture. Llamas teaches an animal cover made out of a material that wick moisture. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the cover of Beeghly et al. out of a wick material to wick moisture as taught by Llamas, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

Response to Arguments

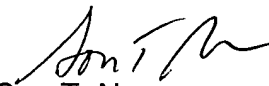
10. Applicant's arguments filed 4/21/06 have been fully considered but they are not persuasive. Applicant's argument regarding Tadauchi et al., Beeghly et al. and DE 20021260U1 have been considered and have been addressed already in the office actions mailed 7/6/05 and 12/15/05, hence, will not be repeated herein. As for claims 14-15, the allowable subject matter have been withdrawn in view of the Daneshvar patent. Due to new art rejection of claims 14-15, the action will not be final.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Son T. Nguyen
Primary Examiner
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stn